

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION**

Civil Action No. 4:11-CV-00094-BO

BRUCE BANNISTER; MAX DUTTON;
and MARION TOWLES;

Towles,

vs.

WAL-MART STORES EAST, L.P.,

Defendant.

**APPENDIX TO DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT REGARDING MAX
DUTTON'S CLAIMS**

H-4

Declaration of Noah Johnson Exhibit 4

A. Binder's Investigative Interview Notes (11/9/2009)

Diane

D - Not question + answer - this is time to put closure for invest. that has taken too long.

Diane - a lot of lack of judgement - family had a baby, died - have 9 grandchildren, Art and I were fundraising and she said she was going home + Art wasn't ready because he would get 1/2 of that money. On Monday Mgmt called her inside the office + lectured her on the fact that Art needed the money. One couple donated 500.00.

Why wasn't he at his restaurant working - how much money did he get?
D. - We can't substantiate whether he got it or not.

Clearly any fund raises will be within the parameters of Wal-Mart. We will raise money correctly, we don't typically - as a matter of fact this is the only case that I know of where a volunteer has helped on a regular basis. This will not happen anymore. I want to make sure that you are comfortable that we are taking the appropriate actions with that individual which is confidential and then going forward we will follow all procedures going forward. When we leave the store today all actions will be taken + procedures will

Diane - I take your word on that. I understand sir.

Art - if there were anyway to correct the issue we would + David would. The family would be out a

Deane - I trust you sir.
David - I wish I could feel good about this conversation
Deane - Thank you so much

A handwritten signature in cursive script, appearing to read 'Shannon England'.

Shannon England

Jennifer -

11-9-09

J - A lot of negative - I agreed w/ you - Dianne stream left
By CBLs and read it - some of it was not true anyway
he is a great store mgr & has taught me everything
I know. He has never compromised his integrity -
his great. I wish you could talk to everyone before
you left & let a few decide

D - well we have policies, procedures &
moral issues that must be corrected.

J - This store would not be what it is
with him. - Ashok, Suffolk, Franklin, Steve 1994,
Calvin, can't remember, short man, James, they were all
there, Suffolk there, great store Joe McQueen.

D - Appreciate you taking the time

J - Nope so - I don't think there are moral
issues - some people like to stir the pot.

D - The statement you saw - what happened?

J - It was at the terminals (CBLs)

D - ^{what} Do you do with it?

J - I read it & it scared me

D - Where is the statement?

J - I left it there -


Shannon England

Jacqueline

11-9-09

D- Not question & answer session

J- Yes, you get a Cust. Call & you don't want to go back in - another DM wouldn't let me go in - I was O/N support - take off my walkie & go home. Told me twice to go to the beach I am asking for help - he is a good man but not always good at relaying a message.

D- What would you like us to do?

J- 10am eating breakfast & he called me & yelled at me

D- One side you respect him & then you say there is the meetings

J- There are 2 Max's - there is a politician & then there is the Wal-Mart Max - He is better after he has been sick - Di's orders. He has been better for 1 mos. All the people talking to us for a month has made him better.

D- I am sure he would reflect.

J- I would hope so - my parents church burned down he was great - 2 different people - Team - no friction - we go to each other - we are in the same boat. But I don't know what will change it.

D - This will change it - I am done w/ investigation all behaviors & practices will be corrected - and I want to know if it doesn't change.

J - Everyone wants to know if this will be the thing to change it. It has been better. I had been asking & asking. I came in & he said Eric was on his way & we heard honor stories about Eric & Max said I better have 54 ft set by 4 PM or my job was on the line. I did it but I did it but I was not happy. I stayed on nights for so long because of it. We have good ASMs in the stores - women - end up transferred out of the store.

D - We have had to look at that and there is varied data on that - promotions & turnover.

J - Turnover is there - its an act.

D - Why for all these years wouldn't people say something.

J - Easier to swallow & move on until now.

D ^{you saw} until now - after ASM if you have a problem w/ JM you would talk MM.

J - ASM I had a problem w/ someone & I actually left the store & told him I would talk to Max. I ended up becoming a Support - and nothing was ever done about it. We were best friends & she called & I

" & I was because of that

J - Max asked her if she should fire him + they have a new baby on the way - she is an %N Stocker.

D - As far as the past few mos - we need to address several ~~issues~~ - use open to market level.

J - I have to add that we see them more often.

D - Should be here every 2-3 wks

J - And there has been

D - Keeps mgr on there toes - People have the ability to be led astray + the poor behavior will continue if there are no consequences. Hey but the way there are the lines in the road - stay between them.

J - Even working overnight you would know - I told Eric it was nice - sat in the ^{extreme} ~~press~~ lounge. Things are different in Kitty Hawk

D - Things we buy + sell are different.

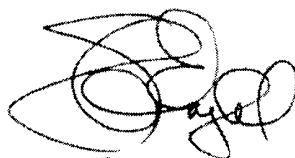
J - What's what happened

D - You pretty perceptive take this as a ^{compliment}

J - I will take it as a complement -

that is why I speak for the group - and I give it back to him. like the ^{go to see} ~~back~~ he didn't talk to him for a week but that's ok then he can't make me mad! I'm pretty Italian. I will go home and cry but not in front of him! No way.

J- We heard all types of stories about
 Eric that were just stories - Eric firing dept
 mgmt - it's not true - Good people leaving
 we only hear 1/2 of the story - When you
 have good people appreciate them!



Shannon England

Mark - Directs

11-9-09

wanted to make sure you are comfortable with
D - CMN donations will be ceased going forward

M - yes sir,

D - We don't want to do it that way - we
have a protocol for raising money properly


M - Ok

D - Seems like you came to the conclusion
on your own that it was wrong,

M - Yes but we worked it out.

D - Ok - lets be clear that we cannot raise
money that way & we have to follow
all policies & procedures.

M - Yes sir


Shannon England

Anita

11-9-09

D - Obviously you know CMN money was ^{not} raised properly

A - Yes - 500 check.

D - I am here to ensure that you understand the correct way raise money going forward.

A - Yes & understand.

D - Any further deposits you need to notify your NM.

A ~~we~~ - We just have a gift card

Art - We ^{will} ~~find~~ find out what we need to do about the gift card.

D - Checking ^w legal.

Art - Call us if you feel like you are not receiving Respect for the clnd.

D - are there problems w/ Respect

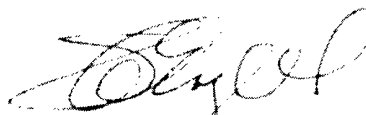
A - We all get along?

D - with Max?

A - My pay was off - so I felt mistreated -

D - Ok - we had some complaints so we wanted to check.

A - Ok - Thanks so much


Shannon England

11-9-09

Rita

D - We understand that you picked up
act?

R - Yes

D - Did you pick up all and get reimbursed

R - It could have been I mean it's a quarter.

D - And it may be sensitive ~~but~~ we want
to ensure we follow all policies + procedures.

R - Ok

A - How many times?

R - Once

A - How far?

R - like a mile

A - We need to pay you to drive your car on
inch.

R - I want to say something - act has
been around a long time + has helped a lot
+ was trustworthy.

D - did he wear dress code?

R - at the end

D - like blue + khaki?

R - Yes

D - name badge

R - no

D - Policies + procedures have changed over time.

R - I understand that now - I used to do them,
we basically cannot do them.

D - I do see heat to ... R - ...

11-9-09

D - Shouldn't take long - correct. Coppertone.

Deb - Melissa

D - Suppline

Deb - Kim G in office - coming down
hall & asked me how much money to give
& also told her I had nothing to tell her or to
do with her.

D - Well invest. is over main thing is
that we don't do these types things - we follow
policies & procedures.

Deb - Theresa & Max take care of that.

D - CMN is our nationally recognized charity
& we raise money in accordance w/ this policy.

Deb. - Yes.

Stengel
Shannon England

MAX DOTSON

11/04/09

THOUGHT THE MEETING WAS FINE. THE
PEOPLE WERE QUITE.

MAX SAID HE WAS AWARE OF VIDEO (CASE)
NOT BEING VIEWED BY VIDEO. DAVID
EXPLAINED THAT THE CASE VIDEO WAS ABOUT
THE RIGHT WAY TO HANDLE CRIME COLLECTION.

MAX SAID ERIC SAID DO WITH EVERY
IT TAKE.

ORIGINAL INVESTIGATION WAS ABOUT PO
BOOR ON MAX FOR DISCRIMINATION.
MAX SAID HE HEARD THAT 3 JOY WEEKS
AGO FROM DAVID.

MORALE - MAX STATED THAT HE DID
NOT BELIEVE THERE IS A MORALE ISSUE.
ONLY ONE ASM HAS CAUSED ISSUES

DEPT MANAGER MEETING ARE UPBEAT &
POSITIVE SAY MAX. DAVID (HARRIS)
MAX ON BELIEVING THAT. SAY MAX IS
ACCUSED BY SEVERAL AS BEING DEMANDING.
MAX SAYS "SAY IF THEY WERE"

DAVID REMS "SEEM'S LIKE WE ARE ~~THREATENING~~
ALSO". MAY SAYS HE CAN'T IMAGINE WHY.

MAY DISPUTES W/O A DOUBT HE HAS
NEVER THOUGHT A SOB. HE BELIEVES THAT AN
ASM WALKING OFF THE SOB HAD A FEW FRIENDS
THAT MAY BE UPSET.

ASM IS TONYA MOORE - SHE WAS UPSET w/ HAVING
TO PAY HER CUNT W/ IF SHE TRANSFERRED
AS. ASM. CALLED ME & SOUNDED LIKE SHE
MAY BE DRINKING. I ALCOHOL'S NOT ~~SURE~~ ~~IF SHE~~
CALLED J RACE/S HAD JO CONTACT HER.
CACHING - URBAL.

TERESA - MAY SAYS HE USED HER FOR KEEPING
ME ON SCHEDULE. SHE KAYO ME
OR TYPED ME. ASM'S ~~YOUNG~~ ~~EVALUATING~~
BECAUSE WE HAD JO CHARLIE CALIBRATED
SCORES SO OFTEN.

DAVID 'DISCUSSES THAT MAY WAS
WEAK & PEOPLE HATE BEING ~~EXAMINED~~
FOR THE VIOLATION OF NOT ~~PROTECTING~~
THEIR PASSWORD SIGN. ON.

DAVID SAID - SHE CAN NOT HAVE YOUR
USER ID. FOR ANY REASON.

MAY. TERESA SITS IN ON
CONFERENCE CALLS BECAUSE I MATTER

HER. SHE CAN LEARN FROM WHAT IS
SPILLED TOO.

DID ASST'S KNOW WHY TERESA ON CC.
MAY - JUST BECAUSE THEY HAD A LOT OF
TEACHING & LEARNING.

DAVID SAID THAT TERESA NEEDS TO WORK
IN HER SUB RESPONSIBILITY -

TERESA AND I HAVE GONE TO SUBMIT w/ OTHER
ASST'S. WE DID HAVE THE STORE ONE TIME
TO HAVE A PERSONAL DISCUSSION WITH AN ASST
WHO NEEDED GUIDANCE ON A PERSONAL MATTER.

TERESA HAD LIMITED KEYS & HAS THEM
EVEN PRIOR TO MY BEING THE MANAGER.

MC SAMMY & SOME OTHERS WERE TRYING TO GET
SOMEONE TO EAT BETTER. I GAVE THEM
THE PICTURE - DID NOT SHARE IT w/ OTHERS.

ART GLIDDEN — LAST RAFFIE. DO NOT
EVEN KNOW ~~HOW~~ THE
DRAWING TAKE PLACE.

MAX. GLOVE IDEA TO GET THE ASSOCIATE
INVOLVED ME & ART GLIDDEN LESS.

I ASKED FAST MARKET MANAGERS TO
USE ART & THEY WERE IN THE KNOW.

NOT WATCHING CARE VIDEO - VERY SHIRT
HANDS - FEB TO JUNE - HAD ~~3~~ 3 OF
3 ASM'S & AMM/ON 1ST. 2ND NIGHTS.

ERIC SAID TRACY WAS GETTING A PLAN
TO COVER ~~AS~~ STAFFING.

ART HAD A NAME BADGE FOR A FEW YEARS.
IT HAPPEN UNDER MY WATCH.
HIS HAVING A NAME BADGE. HAS BEEN BACK
16 YEARS.

MAX SAYS ~~HE~~ HE NEVER TOLD.
ART TO DRESS IN BLUE & KARTI.

MAX SAYS HE NEVER DISCUSSED SOLICIT
MONEY FOR CNN.

Brendo Copperstone, Feb 10 - LA/ All Jack
I told No too.

MAY'S SAYS HE HOPES THE DAVID DOES
NOT TERMINATE HIM. HIS RESPONSE
TO DAVID'S QUESTION TO "WHAT SHOULD I DO
WITH YOU"

THIS PAST SUMMER WAS MY HARDEST.
I SHOULD HAVE TO STEP BACK & NOT
DOE SOME OF THE THING I DID. I
SHOULD HAVE REACHED OUT TO SOMEONE

I DID NOT TELL ASM'S THAT IF THEY DID
NOT PRODUCE THEY WILL BE AN ASM WITH
ANY HONOR LIKE THE ONES IN PALESTINE

I NEVER SAID YOU WILL HAVE A RED DOT
ON YOUR HEAD IF YOU DO NOT PRODUCE -
BUT MY ASM SAMMY DID NOT. LATER TO
TOLD SAMMY HE SHOULD NOT HAVE SAID
THAT. HE SAID IT TO DE'S MANAGERS
BUT GOT IT FROM A CC WITH ERIC
WHO SAID THAT. SAMMY AND I WERE
ON THE CALL. OTHER MANAGER CALLED
ME ABOUT IT.

People WITH ANY/ Follow. Careers.

TERESA SHANSELTEN - I GUESS WE HAVE SOME BREAKDOWN
ISSUE. I DID THE MAX'S ID SIGN ON.

MAX & MANAGEMENT. DECIDED TO SOLICITED
MAY/ FROM VARIOUS - I MADE THE FLYER
UP TO THE VIDEOS.

I WILL NOT GO BEYOND M-/ SUB RESPONSIBILITY
GOING FORWARD.

DAUNNA TRACEY ASKED: IF MAX & I WERE
HAVING AN AFFAIR - IT WAS THEN A
STRONG ~~THE~~ YOU & MAX ARE CLOSE ABOUT
YOU.

KIM STATED I CAN GET MAX FIRED
ANY TIME ~~TIME~~ I WANT. I TOLD
MY ASSJ. MGL.